

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

IN RE: §
§
LEONARD KIAMBI MBWIRIA, § CASE NO. 18-42648
§ (Chapter 7)
DEBTOR §

MOTION OF TRUSTEE TO EMPLOY REAL ESTATE BROKER

14-DAY NEGATIVE NOTICE – LBR 2004(a):

Your rights may be affected by the relief sought in this pleading. You should read this pleading carefully and discuss it with your attorney, if you have one in this bankruptcy case. If you oppose the relief sought by this pleading, you must file a written objection, explaining the factual and/or legal basis for opposing the relief.

No hearing will be conducted on this motion unless a written objection is filed with the Clerk of the United States Bankruptcy Court and served upon the party filing this pleading WITHIN FOURTEEN (14) DAYS FROM THE DATE OF SERVICE shown in the certificate of service unless the court shortens or extends the time for filing such objection. If no objection is timely served and filed, this pleading shall be deemed to be unopposed, and the court may enter an order granting the relief sought. If an objection is filed and served in a timely manner, the court will thereafter set a hearing with appropriate notice. If you fail to appear at the hearing, your objection may be stricken. The court reserves the right to set a hearing on any matter.

TO THE HONORABLE BRENDA T. RHOADES, U.S. BANKRUPTCY JUDGE:

Christopher J. Moser, Trustee (“Trustee”) files his Motion to Employ Real Estate Broker (“Motion”) as follows:

1. On November 27, 2018, Leonard Kiambi Mbwiria (“Debtor”) filed with this Court a voluntary petition under Chapter 7 of the Bankruptcy Code. Christopher J. Moser was thereafter appointed interim trustee of the estate, subsequently qualified and is now the acting Chapter 7 Trustee.
2. The bankruptcy estate owns real estate property located in Lanham, Maryland (“the Property”).

3. In order to market the Property most effectively and thereby liquidate the Property for the best and highest price, Trustee has solicited the assistance of Michael Crane, a licensed real estate broker, whose address is 730 Lipscomb Avenue, Dallas, Texas 75214. Mr. Crane has examined the Property and agreed to advertise the Property at the broker's expense, to show the Property to interested parties, to represent the estate as seller in connection with the sale of the Property, and to advise the Trustee with respect to obtaining the highest and best offers available in the present market for the Property. Mr. Crane will also negotiate with the lienholders on the Property to obtain a "carve-out" for the benefit of the bankruptcy estate should a short sale of the Property occur.

4. Based upon the foregoing agreement, Trustee desires to hire Michael Crane as real estate broker to procure and submit to the Trustee offers to purchase the Property. In consideration for the services Michael Crane will receive a 6% commission of the gross sales price of the Property.

5. Michael Crane has been informed and understands that no sale may be consummated until after notice and a hearing.

6. Trustee is satisfied that Michael Crane is disinterested person within the meaning of 11 U.S.C. §101(14).

7. Michael Crane is aware of the provisions of 11 U.S.C. §328(a) and has agreed, notwithstanding the terms and conditions of employment set forth herein, that the Court may allow compensation different from the compensation provided herein if such terms and conditions prove to have been improvident in light of developments unanticipated at the time of the fixing of such terms and conditions.

WHEREFORE, PREMISES CONSIDERED, Trustee prays that he be authorized to hire Michael Crane as real estate broker on the terms and conditions set forth herein.

Respectfully submitted,

QUILLING, SELANDER, LOWNDS,
WINSLETT & MOSER, P.C.
2001 Bryan Street, Suite 1800
Dallas, Texas 75201
(214) 871-2100 (Telephone)
(214) 871-2111 (Facsimile)

By: /s/ Christopher J. Moser
Christopher J. Moser
State Bar No. 14572500

ATTORNEYS FOR TRUSTEE

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing instrument was served by electronic transmission via the CM/ECF system upon all parties registered to receive electronic notice in this bankruptcy case, and/or regular U.S. mail, postage prepaid, on this 8th day of January, 2019, on the following:

Office of the U.S. Trustee
110 North College Ave., Suite 300
Tyler, TX 75702

Leonard Kiambi Mbwiria
7117 Canyon Meadow Dr.
Sachse, TX 75048
(*Via regular mail*)

Richard A. Pelley
Pelley Law Offices
905 N. Travis
Sherman, TX 75090
(*Via ECF*)

Michael Crane
730 Lipscomb Avenue
Dallas, Texas 75214
(*Via regular mail*)

/s/ Christopher J. Moser